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ANTHONY VIVO, CLERK

## IN THE COURT OF COMMON PLEAS MAHONING COUNTY, ORIO

RLWOOD JONES 716 Olive Ave. Warren, Ohio 4448e

Plaintiff

V6.

STATE FARM MUTUAL INSURANCE COMPANY PO Box 106171 Atlanta, GA 30348-6171

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DOES I & II

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Defendants

CASE NO. 180V 1040

COMPLAINT

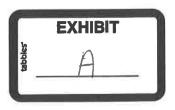
OTHER TORT; DECLARATORY JUDGMENT COVENANT OF GOOD FAITH; BAD FAITH; UNFAIR TRADE PRACTICES

JURY DEMAND ENDORSED HEREON

COMES NOW the Plaintiff and for his claims against the Defendants states as follows:

#### FIRST CLAIM (Negligence)

- 1. On April 26, 2016, on Plaintiff was driving his blue 2000 Honda east on Center Street (near its intersection with Wilson Avenue) Youngstown, Ohio, Mahoning County, when a gold F-150 Ford pickup truck driven by an unknown driver pulled in front of Plaintiff, striking the Plaintiff's Honda, then fled the scene of the accident. The Plaintiff called the Youngstown Police Department and an officer came to the scene, investigated the incident and prepared and filed a Traffic Crash Report, a copy of which is attached as Exhibit A.
- 2. The driver and owner of the F-150 Ford pickup truck are unknown and are referred to herein as Defendant Doe I and II.
- 3. As a direct and proximate result of the negligence and carelessness of Defendants Doe I and II, Plaintiff received personal injuries, suffered physical pain and mental distress and incurred medical bills for treatment and care.



4. Plaintiff's medical bills to date are as follows:

#### SECOND CLAIM (Declaratory Judgment)

- 5. Plaintiff restates each and every prior paragraph of this Complaint, as if it were fully restated herein.
- 6. Plaintiff further states that at all times relevant to the events set forth in this Complaint, he was insured by Defendant State Farm Mutual Insurance Company ("State Farm").
- 7. A true and accurate copy of the policy and the declaration sheet is in the hands of Defendant State Farm, and unavailable to Plaintiff; but he has made a claim under the policy which was assigned Claim No. 35-8L63-419.
- 8. At all times relevant to the events set forth in this complaint, plaintiff was the "insured" under the policy as that term is defined by the policy.
- 9. The policy contains an uninsured/underinsured provision whereby Plaintiff is entitled to recover for bodily injury resulting from the acts of an uninsured and an unknown owner or operator of a motor vehicle.
- 10. That Defendants Doe I and Doe II are unknown and are presumed to be uninsured motorist under the terms of the policy.
- 11. Since Plaintiff has suffered injuries, as set forth above, as a direct result of the negligence of Defendant Doe I and Doe II, and since his injuries are "bodily injuries" as defined in the policy, he made an uninsured motorist claim to Defendant State Farm that assigned it Claim No. 35-8L63-419.

- 12. Although Defendant State Farm fully investigated Plaintiff's claim -- even examined Plaintiff under oath on November 17, 2017 -- although Plaintiff has submitted sufficient documentation to Defendant State Farm to evaluate his claim, defendant thus has far failed to do so -- under one pretext or another.
- 13. Plaintiff requests arbitration of his uninsured/underinsured motorist claim with Defendant State Farm, pursuant to the terms of the policy.
- 14. Defendant State Farm may deny uninsured motorist and/or underinsured motorist coverage to Plaintiff for the injuries and damages he has sustained as a result of the events set forth in this Complaint; or it may severely discount his claim for benefits.
- 15. At all times relevant to the events set forth in this Complaint, Plaintiff paid the premiums and/or performed all conditions necessary to maintain the policy in good standing.

### THIRD CLAIM (Covenant of Good Faith)

- 16. Plaintiff restates each and every prior paragraph of this Complaint, as if it were fully restated herein.
- 17. There is implied in every contract a covenant of good faith and fair dealing.
- 18. Plaintiff and Defendant State Farm had entered into a valid and existing insurance agreement that included uninsured underinsured motorist coverage and this defendant owed plaintiff a duty of good faith and fair dealing under the contract.
- 19. As an insurer, Defendant State Farm owed Plaintiff a fiduciary duty to act in good faith in the handling of his claim, a duty on which Plaintiff reasonably relied on to his detriment.
- 20. Defendant State Farm breached its duty of good faith and fair dealing to Plaintiff by, among other things, refusing to compensate him for the injuries he

sustained as a result of his automobile accident on April 24, 2016, with an unknown and thus presumed uninsured motorist.

21. As a result of Defendant State Farm's breach of its implied covenant of good faith, Plaintiff was damaged in excess of the uninsured limits of the policy; further, Plaintiff is entitled to punitive damages, attorney fees for the bringing of this action and his costs herein.

### FOURTH CLAIM (Bad Faith)

- 22. Plaintiff restates each and every prior paragraph of this Complaint, as if it were fully restated herein.
- 23. The acts and omissions of Defendant State Farm as stated herein, and as yet to be discovered in this action, constitute bad faith.
- 24. As a result of the bad faith of Defendant State Farm, Plaintiff sustained damages in excess of the uninsured policy limits the policy; Plaintiff is further entitled to punitive damages, attorney fees and its cost for the bringing of this action.

# FIFTH CLAIM (Unfair Trade Practices)

- 25. Plaintiff restates each and every prior paragraph of this Complaint, as if it were fully restated herein.
- 26. Defendant State Farm has engaged in unfair trade practices, including a failure to properly settle Plaintiff's claim, and as a result, Plaintiff sustained damages in excess to the uninsured motorist coverage of the policy; further, Plaintiff is entitled to punitive damages, attorney fees for the bringing of this action and his costs herein.

WHEREFORE, Plaintiff prays for judgment against the Defendants.

1. On his First Claim (Negligence) against unknown Defendants Doe I and Doe II, Plaintiff prays for judgment against them in excess of \$25,000, together with prejudgment interest, his cost; and Plaintiff further prays for a judgment of \$50,000 in punitive against these defendants for fleeing the scene of the accident.

- 2. On his Second Claim (Declaratory Judgment) against Defendant State Farm, Plaintiff prays as follows:
- a. A declaration that Plaintiff is an insured pursuant to the uninsured/underinsured provisions of the policy;
- b. A declaration of each party's rights and obligations under the policy; uninsured/underinsured claims to binding arbitration;
- c. Judgment in the amount in excess of \$25,000, costs and interest.
   e. All other appropriate relief according to Plaintiffs' rights under the insurance contract.
- 3. On his Third Claim (Covenant of Good Faith) against Defendant State Farm, Plaintiff prays for judgment in excess of \$25,000, punitive damages in the amount of \$50,000, his attorney fees and costs.
- 4. On his Fourth Claim (Bad Faith) against Defendant State Farm, Plaintiff prays for judgment in excess of \$25,000, punitive damages in the amount of \$50,000,
- his attorney fees and costs.
  5. On his Fifth Claim (Unfair Trade Practices) against Defendant State Farm, Plaintiff prays for judgment in excess of \$25,000, punitive damages in the amount of \$50,000, his attorney fees and costs.

PLAINTIFF DEMANDS TRIAL BY JURY ON ALL JURY ISSUES OF THIS CASE.

Respectfully submitted,

Irene K. Makridis #0016760 Attorney for Plaintiff 155 S. Park Ave., Suite 160 Warren, Ohio 44481

Tel. 330-394-1587; Fax 330-394-3070

office@makridislaw.com

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Escrian Tabpero 1 - Nor Escrico 1 - Nor Tabbero	OPERATOR LICENSE GLASS  1 - CLASS A  COMMITTOR  1 - APPRICATE NOTION	3 · FELL ABLEEP, FAINTED, FAIRGUED	ALCOHOL/DRUG SUSPECTED
2 - TOTALLY EJECTED 3 - PARTMALY EJECTED 4 - NOT APPLICABLE 3 - EXTREMATO BY NOT-MECHANICAL MEANS	2 - Class B 5 - Class C 4 - Recount Class 10-min = "D" 5 5 - MC/Moreo Chies 10-min = "D" 4 1 Liness	6 - Unice Tile librurnes of Medicanows, Daugs, Accanol. 7 - Orice	2 - YAR - ALCONIL SUSPECTER 3 - YER - HOD NOT IMPAIRED 4 - YER - DENGE SUSPECTED 5 - YER - ALCONIL AND DRUGG SUSPECTER
1 - None Green 1 -	- None 1 - None Geven	DRUG TEST TYPE DRIVER DISTRACTED BY  1 - Note 1 - No Distraction Reported	6 - Other Indica the Venicus
3 - Test Given, Contauthates Saure (/Unusable 3 - 4 - Test Given, Results Known 4 -	- Bloop 2 - Test Refuses - Unine 3 - Test Grean, Contaminated Samme/Universele - Breata 4 - Test Given, Resules Known - Otrer 5 - Test Given, Resules Universele	2 - Blood 3 - Peere 3 - Terring/E-Malling 4 - Other 5 - Terring/E-Malling 5 - Peere 5	7 - EFTERBAL DISTRACTION
INIT NUMBER NAME: LAST, FIREY, MISSOLE		5 - Orner Executoric Device (Namarian Device, Rumo, 5VO) Date of Birth	Ace Ginger F. France
Audoress, Crrs, State, Zip		Corract Product and	M · Male
		19-20-7-20-7-20-7-2	
AUGUST 1 JANUARY TANKIN BY EMS AGENCY	MACHICAL FACILITY INJURED VAREN TO SACE	TY Emirwether Uses DOT COMPLIANT SEASONE PO	STITION ALL BAC USACE EJECTION TRAPPED
HET NAMES LAST, FIRST, MINOSE		DATE OF BIRTH	Ace Geroza F - Finali
Accress, City, State, Zip		CONTACT PROME- INC	M - MALE
MUDRIES TANEM BY EMS AGENCY	MEGICAL FACILITY INCURED TAMEN TO SAFE	TY EQUIPMENT USED DOT CONPLIANT SEATING PO	AN BAG DEACE EXECTION TRASPES
		Hernes	
SY8306 DHIM (REV 88/13) [760-1580]	- L		PAGE OF